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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/018,609

02/11/2002

Ernst Rytz

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7590 10/24/2007
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EXAMINER

MICHALSKI, SEAN M

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

10/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/018,609	Applicant(s) RYTZ ET AL.	
	Examiner Sean M. Michalski	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Examiner takes official notice of the fact that a person of ordinary skill in the art would possess a B.S. degree in Mechanical engineering, a closely related field or equivalent work experience as indicated by the quality, nature and extent of the cited references.

3. Claims 1-3, 7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolnosky (3,570,343) in view of Haack et al (4,905,556).

Wolnosky discloses the invention as claimed including a press plate (34) having a V-ring cylinder (42), which is under pressure from a V-ring cylinder (88) comprising a V-ring piston rod connected to a V-ring piston (86) disposed opposite to and in support of the V-ring (42) of the press plate (34), and a blanking punch (54) which is guided in the press plate (34) and to which a die plate (24) with counter holder is assigned at a ram, wherein the ram is supported against at least one compensation cylinder (66/68) and

wherein the ram is supported against at least one compensation cylinder (66/68) and against at least one main cylinder (58). In addition, Wolnosky discloses a hydraulic connection (64/90) comprising a tank (72, 92) and logic valve (82, 94).

Wolnosky fails to disclose the compensation cylinders are hydraulically connected to the V-ring cylinder. However, Haack et al discloses an apparatus for blanking wherein cylinders from the upper and lower die shoes are connected hydraulically. This connection eliminates the need for several tanks while still allowing for individualized control of the different sections with separate valves. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the cylinders of the Wolnosky device hydraulically connected, as disclosed by Haack et al, for the purpose of eliminating a tank, thus reducing cost and complexity.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolnosky in view of Haack et al as applied to claims 1 and 3 above, and further in view of Baltschun (6,240,818).

The Wolnosky-Haack combination fails to expressly disclose the cross-sectional area of the compensation pistons and V-ring pistons as claimed. However, Baltschun teaches the importance of equal piston areas of opposed cylinders in a blanking device in order to achieve an equilibrium state. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the pistons of the

Wolnosky-Haack combination equal in cross-sectional area, as disclosed by Baltschun, for the purpose of creating an equilibrium state.

Response to Arguments

5. Applicant's arguments filed 07/03/2007 have been fully considered but they are not persuasive.

The Supreme Court in *KSR International Co. v. Teleflex Inc. et al.* No. 04-1350, 550 U.S. ____ (2007), 82 USPQ2d at 1396, foreclosed the argument that a specific teaching, suggestion or motivation is required to support a showing of obviousness. See the Board decision *Ex parte Smith* –USPQ2d–, slip op at 20, (Bd. Pat. App. & interf. June 25, 2007).

Applicant has argued only a lack of motivation to combine, which has not been found persuasive. Motivation and sound reasoning has been provided clearly in the record. One of ordinary skill would have saved money by using one valve instead of multiple valves, which is a valid reason to modify the references in the ways disclosed above (there are additional reasons and rationales-readily identified by one of ordinary skill). Applicant has presented no evidence that one of ordinary skill in the art would have been unable to effect the desired combination, each of the elements being known in the prior art and unchanged in function in the present combination.

Applicant also fails to appreciate the level of ordinary skill in the art, which is that of a designer of such systems as the presently claimed apparatus. Such a theoretical person would be capable of rearranging parts, and making necessary substitutions to effect a wide variety of measures, including measures *chosen as a matter of design*

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choice to lower cost, weight, operating cost, assembly steps (DFA), ease of maintenance (DFM) or other parameters as dictated by the problem itself (punching).

See DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co., 80 USPQ2d 1641 (Fed. Cir. 2006), which states that "the suggestion test is not a rigid categorical rule. The motivation **need not be found in the references sought to be combined**, but may be found in any number of sources, **including common knowledge**, the prior art as a whole, or **the nature of the problem itself**. *In re Dembiczak*, 175 F.3d 994, 999 [50 USPQ2d 1614] (Fed. Cir. 1999). As we explained in *Motorola, Inc. v. Interdigital Tech. Corp.*, 121 F.3d 1461, 1472 [43 USPQ2d 1481] (Fed. Cir. 1997), 'there is no requirement that the prior art contain an express suggestion to combine known elements to achieve the claimed invention. Rather, the suggestion to combine may come from the prior art, as filtered through the knowledge of one skilled in the art.' " (emphasis added).

Conclusion

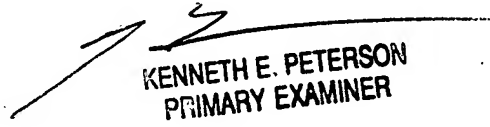
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean M. Michalski whose telephone number is 571-272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMM



KENNETH E. PETERSON
PRIMARY EXAMINER